

REMARKS

The Office Action of March 19, 2007 and the Interview Summary of July 10, 2007 have been carefully reviewed and this response addresses the Examiner's concerns stated in the Office Action.

I. REQUEST FOR A ONE-MONTH EXTENSION OF TIME UNDER 27 C.F.R. § 1.136(a)

Applicant requests a one-month extension of time and include herein the authorization for fee payment. Thus this response is timely filed, with the one-month extension of time, on or before July 19, 2007.

II. RESPONSE TO THE INTERVIEW SUMMARY OF JULY 10, 2007

With respect to claim 1, Examiner agreed to consider Applicant's argument that the references, Gomez and Woehl, are not combinable. With respect to claim 4, Applicant claims contacting individuals automatically, a capability that Applicant does not believe is old art. Applicant stated the need for a reference for this aspect of the invention. With respect to claim 14, Applicant is herein amending claim 14 to clarify the terminology. Further, Applicant and Examiner agreed that Applicant's claimed steps of photographing pre-determined locations of the building and linking the photographs to the floor plan are not described in the OSHA document.

III. STATUS OF THE CLAIMS

Claims 1-20 are pending in the application.

Independent claim 14 has been amended to correct a typographical error. No new matter has been added.

Dependent claim 6 has been amended to further define the invention. Support for the amendment can be found in Applicant's Specification, paragraphs 28 and 29. No new matter has been added.

Dependent claims 19 and 20 have been added. Support for dependent claims 19 and 20 can be found in Applicant's Specification, paragraph 30. No new matter has been added.

Claims 14-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by OSHA 3088 "How to Plan for Workplace Emergencies and Evacuations" (OSHA).

Claims 1, 2, 5-11, 13, and 17-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gomez et al., U.S. Patent Application Publication # 2003/0115076, filed on March 13, 2002, published on June 19, 2003 (Gomez) in view of Woehl, United States Patent # 6,574,634, issued on June 3, 2003, filed on March 8, 2001 (Woehl). Applicant respectfully points out that Gomez was published within one year of Applicant's filing date, July 14, 2003, and Woehl issued within one year of Applicant's filing date. Applicant reserves the right to swear behind either Gomez or Woehl or both.

Claims 3, 4, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gomez in view of Woehl, and further in view of OSHA.

The drawings were objected to as failing to comply with 37 C.F.R. § 1.84. Applicant herein submits a Replacement Sheet for FIG. 8.

IV. OBJECTIONS TO THE DRAWINGS

On page 2, the Office Action states that the drawings are objected to under 37 C.F.R. § 1.84 because in FIG. 8, the lines, numbers and letters are not uniformly thick and well defined. Applicant herein submits a Replacement Sheet for FIG. 8, with uniformly thick and well defined numbers and letters. The submitted formal drawing is substantially the same as the originally-filed drawing, but with inconsequential aspects omitted for clarity. No new matter has been added. Further, because

the disclosure is clearly understandable with reference to the other figures in the drawing, formal drawings for those figures will be submitted at a later date.

V. REJECTIONS UNDER 35 U.S.C. § 102

On pages 2-3, the Office Action states that claims 14-16 are rejected under 35 U.S.C. § 102(b) as being unpatentable over OSHA.

Applicant respectfully points out that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (CAFC, 1987), M.P.E.P. § 2131. As provided by the remarks set forth below, clearly this is not the case with the present rejection of the claims.

It is submitted that amended independent claim 14 is not anticipated by OSHA because OSHA does not teach Applicant's claimed steps of (1) photographing pre-determined locations in and parts of the building, and (2) linking the photographs and the statistics to the floor plan. With respect to (1), OSHA does not teach photographing pre-determined locations in and parts of the building because OSHA's building characterizations, as illustrated and stated on OSHA, page 2, are limited to floor plans, egress routes, emergency equipment locations, workplace maps, and safe or refuge areas. None of OSHA's building characterizations needs or is typically associated with photography. Floor plans, egress routes and emergency equipment locations, as OSHA requires them, are shown on page 2, and are clearly not photographs. Workplace maps, likewise with maps of any kind, are not typically photographs. Safe or refuge areas, in association with escape procedures and route assignments, would typically include a list of those areas and how to get to them, but not photographs of the areas, because photographs of safe or refuge areas would not be relevant to the purpose of a document outlined escape procedures and route assignments. With respect to (2), OSHA does not teach Applicant's claimed step of linking photographs to the floor plan because (a) OSHA does not teach photographing locations in and parts of the building, as explained above, and (b) OSHA's links between the floor plan and other external data are limited to iconic representations of emergency

equipment (fire extinguishers and first aid kits), and escape routes superimposed on the floor plan, but do not include photographs.

It is submitted that dependent claims 15 and 16 are patentable at least by virtue of their dependence upon amended independent claim 14.

Since OSHA does not teach each and every element of Applicant's amended independent claim 14 and claims 15 and 16 which depend therefrom, Applicant's amended independent claim 14 and claims 15 and 16 are not anticipated by OSHA, and a rejection under 35 U.S.C. § 102(b) is inappropriate. Further, it is submitted that amended independent claim 14 and dependent claims 15 and 16 are not made obvious by OSHA under 35 U.S.C. § 103. Applicant asserts that amended independent claim 14 and dependent claims 15 and 16 are now in condition for allowance. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(b) with regards to amended independent claim 14 and dependent claims 15 and 16 for the reasons set forth above.

VI. REJECTIONS UNDER 35 U.S.C. § 103

On pages 3-7, the Office Action states that claims 1, 2, 5-11, 13, and 17-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gomez in view of Woehl.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

With respect to independent claims 1 and 7, and dependent claims 10 and 13, it is submitted that a person of ordinary skill in the art of disaster preparedness would not have combined Gomez with Woehl because the invention of Woehl is unrelated to disaster preparedness. The person of ordinary skill in the art of disaster preparedness is a person who would follow the guidelines

presented in OSHA, guidelines which lack any sort of sophisticated automation such as, for example, electronic relational databases that could support Applicant's claimed linked characteristic information. Gomez's invention simply states a building-specific emergency response plan, the equivalent of an electronic OSHA diagram (OSHA, page 2), where information about a building, such as the locations of fire extinguishers and escape routes, is positioned on a floor plan. Gomez's hypertext links are not described to include information such as Applicant's claimed linked characteristic information, in fact they are not described at all, and a person of ordinary skill in the art would not expect any more sophistication than what is presented in a system such as the one described in OSHA, with the hypertext links pointing to, for example, geography-relevant safety codes, since Gomez's primary use is training (Gomez, paragraph 8). Nowhere does Gomez suggest that building characteristics are interrelated.

With further reference to independent claims 1 and 7, and dependent claims 10 and 13, the *MPEP* § 2143.01 states that the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art, and all teachings in the prior art must be considered *to the extent that they are in analogous arts. In re Young*, 927 F.2d 588, 18 USPQ2d 1089 (Fed. Cir. 1991). [Emphasis added] It is submitted that Gomez and Woehl are not in analogous arts because (1) they are classified non-analogously, and (2) an inventor looking for solutions to disaster preparedness would not search art for generating a database or data structure via a user interface. With respect to (1), Woehl is classified in classification 707/102: database schema or data structure: generating database or data structure (e.g., via user interface), while Gomez is classified in classification 705/1: automated electrical, financial, or business practice or management arrangement. With respect to (2), it is submitted that practitioners in the art of disaster preparedness would understand what they needed to know about generating a database, i.e. collecting building statistics, from the guidelines set forth in OSHA and would not need to seek guidance from the electronic database arts.

With still further reference to independent claims 1 and 7, and dependent claims 10 and 13, it is submitted that the design need and/or market pressure to solve the problem of rapid response to building events has been in existence since buildings were first constructed, and therefore there has been a long-felt need for Applicant's invention, which is an objective indicator of non-obviousness.

Applicant's invention bridged the gap between the prior art, i.e. a floor plan showing an escape route and equipment, and Applicant's claimed linked characteristic information.

And finally, with reference to independent claims 1 and 7, and dependent claims 10 and 13, the MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) It is submitted that neither Gomez nor Woehl suggests their combination because (1) Gomez does not need a relational database to provide an electronic image of a floor plan for training purpose, and (2) Woehl does not provide any capabilities that would suggest a building incident application such as Applicant claims.

It is submitted that dependent claims 2 and 5 are patentable at least by their dependence upon patentable independent claim 1.

Applicant has amended dependent claim 6 to further define the invention. Support for this amendment can be found in Applicant's Specification, paragraphs 28 and 30. It is submitted that dependent claim 6 is not obvious in view of Gomez and Woehl because neither reference discloses or suggests Applicant's claimed steps of displaying the pre-determined format on a handheld device, and manipulating the linked characteristic information on the handheld device to enable a response to the building incident. Neither reference states any capabilities with respect to a mobile device.

It is submitted that dependent claims 8, 9, 11, 17, and 18 are patentable at least by their selective dependence upon patentable independent claims 1 and 7.

On pages 7-8, the Office Action states that claims 3, 4, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gomez in view of Woehl, and in further view of OSHA.

It is submitted that dependent claim 3 is patentable at least by its dependence upon patentable independent claim 1.

It is submitted that dependent claim 4 is not obvious in view of Gomez, Woehl, OSHA, and Official Notice because none of the references discloses or suggests Applicant's claimed automatically contacting individuals through use of electronic contact information determined from linked characteristic information about a building. The MPEP § 2144.03 states that Official Notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. It is submitted that Applicant's claimed automatically

contacting individuals through use of contact information that is derived from linked building information is not capable of instant and unquestionable demonstration as being well-known because searches of the U.S. patent files and an internet search do not result in Applicant's claimed feature.

It is submitted that dependent claim 12 is not obvious in view of Gomez, Woehl, or OSHA because (1) none of the references state Applicant's claimed contact list including responding contacts and affected contacts, and (2) none of the references states a dispatcher that tasks the responding contacts and a notifier that informs the affected contacts when a building incident has taken place. With respect to (1), OSHA states a single contact list and a general set of reasons to contact the individuals on the list, but does not state two categories of individuals on the contact list -- Applicant's claimed responding contacts and affected contacts.

Since none of Gomez, Woehl, OSHA, or Official Notice, either individually or in combination, teaches or suggests each and every element of Applicant's dependent claims 3, 4, and 12, Applicant's dependent claims 3, 4, and 12 are not made obvious by Gomez, Woehl, OSHA, and Official Notice, and a rejection under 35 U.S.C. § 103(a) is inappropriate. Applicant asserts that dependent claims 3, 4, and 12, are now in condition for allowance. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 103(a) with regards to dependent claims 3, 4, and 12 for the reasons set forth above.

VII. CONCLUSION

Independent claims 1, 7, and 14 are believed to be in condition for allowance for the reasons provided herein. It is submitted that dependent claims 2-6, 8-13, and 15-16, are also allowable for the reasons presented above, and further because they selectively depend upon independent claims which are believed to be in condition for allowance, and are therefore also believed to be in condition for allowance.

Two new dependent claims have been added, making the total number of claims twenty, and the total number of independent claims three. A one-month extension of time has been requested herein. The Commissioner for Patents is therefore authorized to charge additional fees, in particular the fee of \$60 for a small entity for a one-month extension of time under 37 C.F.R. § 1.17(a)(1), or credit overpayment to Deposit Account No. 03-2410, Order No. 32157.00101.

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Amdt. Dated July 19, 2007
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The following information is presented in the event that a call may be deemed desirable by
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Respectfully submitted,
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Date: July 19, 2007

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